IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 5191 of 2005

For Approval and Signature:
HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYANTILAL UMEDBHAI PATEL - Applicant(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR DF AMIN for Applicant(s) : 1,
PUBLIC PROSECUTOR for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 25/06/2007

ORAL JUDGMENT

1. By way of this application under Section 482 of the Code of Criminal Procedure, the applicant – original accused No.3 has prayed for an appropriate order to quash and set aside the

complaint being I CR No.31 of 2005 registered with Aslali (Viramgam) Police Station, Ahmedabad.

2. The applicant along with the other co-accused are charged for the offence punishable under Section 420 r.w. Section 114 of the I.P.C. by alleging inter alia that the applicant and other persons were selling duplicate hunny by projecting it as Real hunny. The applicant and other co-accused are also charged for the offence punishable under Section 272 of I.P.C.

3. It is required to be noted that initially the applicant moved an application for anticipatory bail under Section 438 of the Code of Criminal Procedure and considering the role attributed to the applicant and considering the police papers and having found prima facie case of cheating, etc., the anticipatory bail application came to be rejected and thereafter, the investigation has proceeded further. In the meantime, the applicant has approached this Court by way of

present application and this Court has granted the stay of further investigation. It is reported that charge-sheet against the other accused is already filed on 1.6.2005, however, in view of the stay of further investigation qua the applicant in the present application, no charge-sheet has been filed against the applicant.

4. Shri Barot, learned advocate appearing for the applicant has submitted that there is no offence committed by the applicant as alleged under Section 272 r.w. Section 114 of I.P.C. He has relied upon the judgment of the Hon'ble Supreme Court in case of ***Joseph Kurian Philip Jose V/s. State of Kerala*** reported in **(1994) 6 SCC 535** as well as in case of ***Emperor V/s. Ram Dayal and Others*** reported in **1923 Allahabad P.94**.

5. It is required to be noted that on bare reading of the complaint, it discloses cognizable offence and even the statements of other persons have also been recorded during the course of

investigation and so far as other co-accused are concerned, charge-sheet has already been filed on 1.6.2005. Considering the fact that the FIR / complaint discloses the cognizable offence which is required to be further investigated and the allegations against the applicant and other co-accused that they were selling duplicate hunny by projecting it as hunny, no case is made out to quash the complaint / FIR. Hence, this application is rejected. Rule is discharged. Ad-interim relief, if any, granted earlier, stands vacated forthwith.

[M.R.Shah, J.]

FURTHER ORDER

6. At this stage, the learned counsel appearing on behalf of the applicant prays to extend the ad-interim relief granted earlier. Considering the fact that against the other co-accused charge-sheet has already been filed on 1.6.2005, prayer of the applicant to stay further investigation is hereby rejected.

[M.R.Shah, J.]

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